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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 PARKER, SMITH & FEEK, INC.,

9 Plaintiff,

10 v.

11 MICHAEL J. REPH, et al.

12 Defendants.

C19-1456 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable  
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiff's motion for expedited discovery, docket no. 7, is DENIED. A  
16 party seeking expedited discovery prior to the Rule 26(f) conference must establish good  
17 cause. *See Exari Sys. Inc. v. Amazon Corp. LLC*, 2015 WL 12025325 at \*1 (W.D. Wash.  
18 May 4, 2015). In determining whether good cause exists, the court may consider:  
19 (i) whether a motion for a preliminary injunction is pending; (ii) the breadth of the  
20 proposed discovery requests; (iii) the purpose for seeking expedited discovery; (iv) the  
21 burden on the opposing party to respond to the requests; and (v) how far in advance of  
22 the Rule 26(f) conference the request for expedited discovery has been made. *Id.*; *see*  
23 *also Fluke Elecs. Corp. v. Cordex Instruments, Inc.*, 2013 WL 566949 at \*10 (W.D.  
Wash. Feb. 13, 2013). These factors do not weigh in plaintiff's favor. No motion for  
preliminary injunction is pending, and plaintiff has provided no reason why it cannot file  
such motion before conducting discovery. Plaintiff already has evidence concerning  
specific files that it alleges defendants improperly copied and took with them when they  
resigned. Plaintiff's proposed written discovery requests appear in part to merely seek  
confirmation of such information, which is not a proper function for expedited discovery.  
Plaintiff asserts that it needs to ascertain, before presenting a motion for preliminary  
injunction, whether defendants have plans to unfairly compete with plaintiff using its

1 trade secrets or confidential or proprietary information and/or whether defendants intend  
2 to disclose such materials to third parties; however, the interrogatories and requests for  
3 production that plaintiff proposes to propound do not ask about defendants' plans or  
4 intent. The Court is not persuaded that plaintiff's proposed early discovery requests serve  
5 any purpose other than obtaining on an expedited basis the discovery that would  
6 ordinarily be conducted in this case. *See Fluke*, 2013 WL 566949 at \*12 (discovery "the  
7 extent of the alleged harm" is "not a legitimate basis for expedited discovery because it  
8 merely attempts to substitute expedited discovery for normal discovery"). Although the  
9 Court has recently set a deadline of November 19, 2019, for a Rule 26(f) conference,  
10 nothing prevents counsel from conducting such conference in advance of the deadline  
11 and then commencing discovery.

12 (2) Plaintiff's request for a preservation order is also DENIED. The parties  
13 "owe an 'uncompromising duty to preserve' what they know or reasonably should know  
14 will be relevant evidence in a pending lawsuit even though no formal discovery requests  
15 have been made and no order to preserve evidence has been entered." *Id.* at \*13 (quoting  
16 *United Factory Furniture Corp. v. Alterwitz*, 2012 WL 1155741 at \*3 (D. Nev. Apr. 6,  
17 2012)). Plaintiff has offered no evidence that defendants and their attorneys are ignorant  
18 of or have disregarded their responsibilities, and the Court assumes, in the absence of  
19 evidence to the contrary, that the litigants and the lawyers will continue to comply with  
20 their obligations.

21 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of  
22 record.

23 Dated this 7th day of October, 2019.

William M. McCool  
Clerk

s/Karen Dews  
Deputy Clerk